

encoded protein or polypeptide inhibits the activity of calpain upon its expression in the cell, thereby effecting the level of p53 protein.

26. (amended) A viral vector comprising a nucleic acid encoding a protein or polypeptide, wherein the protein or polypeptide is an inhibitor of the activity of calpain, and wherein the viral vector is capable of transforming an animal cell.

### **Remarks**

In response to the non-final Office Action dated March 28, 2001, applicants request reconsideration in view of the following remarks, entry of the amendment, and timely notice of allowance.

Claims 18-29 are pending and are being examined.

Claim 18 is amended to recite the language suggested by the Examiner at page 10 of Paper No. 8. The specification as a whole clearly supports amended claim 18.

Claim 26 is amended to introduce the recitation “wherein the viral vector is capable of transforming animal cells.” Explicit support for the amendment appears at page 9, lines 19-24, where the vector is described as one capable of transforming animal cells. Further support exists in the specification as a whole and the examples. No new matter enters by these amendments. In compliance with 37 C.F.R. § 1.121, applicants enclose a marked-up version of the amended claims as Appendix A.

#### **A. The Rejections Under 35 U.S.C. § 112, First Paragraph**

##### **1. Written Description**

Claims 21, 22, and 28-29 stand rejected under 35 U.S.C. § 112, first paragraph, as the specification allegedly fails to provide a description of “parts” of calpastatin that inhibit the activity of calpain. Applicants respectfully disagree.

The written description requirement involves an analysis of the specification and original claims through the understanding of the ordinary skilled artisan. The requirement is met if one of skill in the art would reasonably recognize that the applicants were in possession of the